

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

ADIM8, LLC,

Plaintiff,

vs.

BUFFALO WILD WINGS, INC.,

Defendant.

Civil Action No.: 6:22-cv-00152

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Adim8, LLC (the “Plaintiff”), by and through their undersigned attorney, for this original Complaint against Defendants Buffalo Wild Wings, Inc., (the “Defendant”), alleges, based on its own knowledge with respect to itself and its own actions and based on information and belief as to all other matters, as follows:

1.

This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, to enjoin infringement and obtain damages from Defendants’ unauthorized manufacture, use, sale, offer to sell, and/or importation into the United States for the subsequent use or sale of products or methods that infringe one or more claims United States Patent Numbers 8,107,940 and 8,787,895.

PARTIES

2.

Plaintiff Adim8, LLC is a Nevada limited liability company having its principal place of business at 621 South B Street, Unit EE, Tustin CA 92780.

3.

Upon information and belief, Buffalo Wild Wings, Inc. is a corporation organized under the laws of the State of Minnesota, having its principal place of business at 3 Glenlake Parkway, Atlanta, GA 30328, and a restaurant, Buffalo Wild Wings, at 2312 West Loop 340, Waco, TX 76711.

4.

Upon information and belief, Defendant may be served this Complaint by service upon its registered agent: Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301.

JURISDICTION AND VENUE

5.

This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

6.

Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) in that, upon information and belief, Defendant has a local restaurant within this district, at, for example, Buffalo Wild Wings, at 2312 West Loop 340, Waco, TX 76711. Defendant routinely does business within this district, Defendant has committed acts of infringement within this district, and Defendant continues to commit acts of infringement within this district.

7.

Upon information and belief, Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to Defendants' substantial business in this State and judicial district, including: (i) at least a portion of the infringements alleged herein; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

ADIM8'S ASSERTED PATENTS

8.

On January 31, 2012, U.S. Patent Number 8,107,940 (“the ’940 Patent”) entitled SYSTEM AND METHOD FOR PROVIDING ADVERTISING ON A MOBILE DEVICE, was issued to Timothy R. Jackson. A true and correct copy of the ’940 Patent is attached to this Complaint as Exhibit 1 and is incorporated by reference herein.

9.

On July 22, 2014, U.S. Patent Number 8,787,895 (“the ’895 Patent”) entitled SYSTEM AND METHOD FOR PROVIDING ADVERTISING ON A DEVICE, was issued to Timothy R. Jackson. A true and correct copy of the ’895 Patent is attached to this Complaint as Exhibit 2 and is incorporated by reference herein.

10.

All rights, title, and interest in the ’940 and ’895 Patents have been assigned to Adim8, LLC.

11.

The ’940 and ’895 Patents are generally directed towards systems and methods for providing advertising on a device, such as a computer, tablet or smart phone.

INTRODUCTION

12.

On a regular basis, digital applications display time indicators, such as hourglasses, rotating circles, and the like, that tell the user that the application is currently unavailable to the user because of processing, transferring data, or waiting for a remote server to complete a task. Adim8,

LLC ‘makes this idle time an advertising opportunity using its patented technology. With Icon Advertising, standard idle indicator is replaced with customized animations of an advertiser’s logo, icon, or ad content. Instead of the consumer watching a spinning circle, the consumer sees the advertiser’s logo or animation.

13.

Adim8, from the blending of the words “advertise” and “animate,” brings to market a unique digital advertising method known as Icon Advertising, which places an advertiser’s advertising icon or logo at the center of the consumer’s attention. Icon Advertising applies to a wide range of digital content and applications, including streaming media, social networking, on-line gaming, travel applications and more. In fact, any application which regularly experiences noticeable waiting events can apply Icon Advertising. Adim8’s patented technology was developed for use on a wide variety of devices and applications, including personal computers, smart phones, tablets, websites, media players, navigational systems and game consoles.

14.

Adim8, LLC patented icon advertising technology is simple to integrate into any application with a proprietary easy-to-use application program interface (“API”). The API allows developers to easily replace a software call to the standard waiting indicator with a call to the icon advertising function. There are no other changes to make. Icon advertising manages ad downloads, ad rotation, display statistics, and reporting information back to the hosting server.

15.

In addition to developing its patented technology, Adim8, LLC also produces creative content and compelling ad campaigns leveraging this exciting new technology. Adim8 helps developers and publishers generate a new and synergistic revenue stream from virtually any digital

application. places advertisers' brands at the center of the digital consumers' attention, and brings viewer-friendly advertising to the streaming video market.

COUNT I

DIRECT INFRINGEMENT OF THE '940 PATENT PURSUANT TO 35 U.S.C. § 271(a)

16.

Plaintiffs incorporate by reference the allegations of Paragraphs 1-15.

17.

Defendants have directly infringed and continue to directly infringe at least one or more claims of the '940 Patent, through, among other activities, making, using, and incorporating into Defendants' website, icon advertising technology. Claim 8 of the '940 Patent, for example, recites:

8. A method of advertising via a mobile device accessing a network, the mobile device having a mobile computer-readable medium, a processor, and a display, the method comprising the steps of:

loading a graphic advertisement onto the mobile computer-readable medium of the mobile device, the graphic advertisement having a time passage indicator for indicating the passage of time;

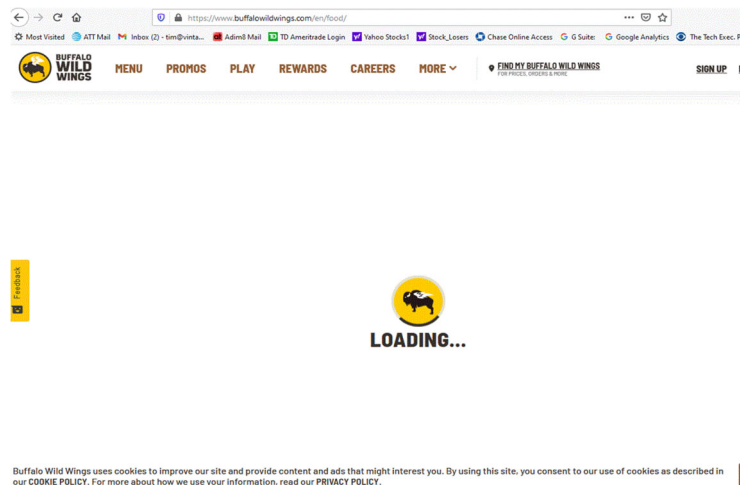
displaying the graphic advertisement on the mobile device when the mobile device is in an idle-time period, the idle time period in which updated application information cannot be presented on the display of the mobile device due to data processing activity by the processor, data transfer activity, congestion or latency in the network, or any other activity that occupies resources in the mobile device to prevent the updating of the display;

animating the graphic advertisement so that the time passage indicator indicates the passage of time in order to replace and perform the function of a standard waiting indicator; and

removing the graphic advertisement once the idle-time period has ended.

18.

The Defendant's website (<https://www.buffalowildwings.com>) advertises Buffalo Wild Wings goods and services and is viewable on a mobile device. The Defendant's website displays a graphic advertisement that includes a time passage indicator.



The graphic advertisement displays the time passage indicator during idle time periods. The graphic advertisement is animated and is displayed in lieu of a standard waiting indicator. The graphic advertisement is removed once the idle-time period has ended.

COUNT II

DIRECT INFRINGEMENT OF THE '895 PATENT PURSUANT TO 35 U.S.C. § 271(a)

19.

Plaintiffs incorporate by reference the allegations of Paragraphs 1-15.

20.

Defendants have directly infringed and continue to directly infringe at least one or more claims of the '895 Patent, through, among other activities, making, using, and incorporating into Defendants' website, icon advertising technology. Claim 1 of the '895 Patent, for example, recites:

1. A method of advertising via a device accessing a network, the device having a computer-readable medium, a processor, a display, and a first time passage indicator to indicate a passage of time during idle-time periods, wherein the first time passage indicator is disposed on or in the computer-readable medium, the method comprising:

loading a second time passage indicator onto or into the computer-readable medium of the device before detecting a first idle-time period, wherein the second time passage indicator is different from the first time passage indicator and the second time passage indicator (i) is representative of a graphic advertisement and (ii) indicates a passage of time during the first idle-time period;

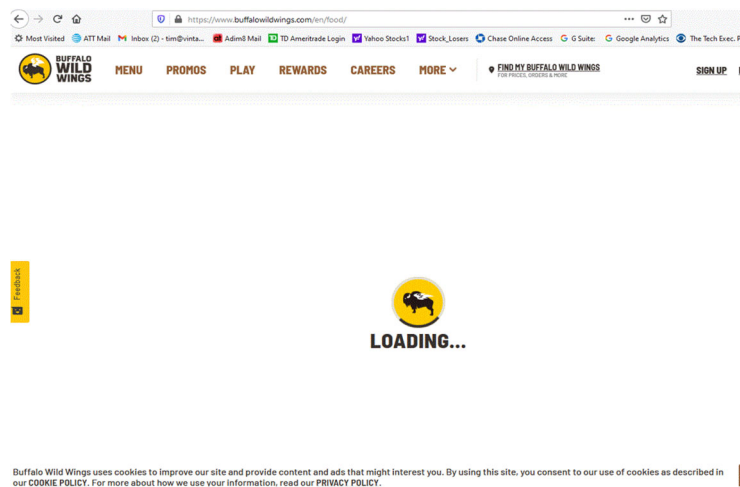
updating application information on or in the device and thereby providing the first idle-time period;

displaying the second time passage indicator on the display of the device during the first idle-time period, wherein the first idle-time period includes a time corresponding to updating application information on or in the device and wherein the graphic advertisement of the second time passage indicator is associated with an entity, product and/or service; and

animating the graphic advertisement of the second time passage indicator on the display of the device during at least a portion of the first idle-time period.

21.

The Defendant's website (<https://www.buffalowildwings.com>) advertises Buffalo Wild Wings goods and services and is viewable on a mobile device. Mobile devices include a standard waiting indicator. The Buffalo Wild Wings website displays a graphic advertisement waiting indicator that is displayed during an idle time period.



The graphic advertisement waiting indicator is display whilst the Buffalo Wild Wings website loads pages or data onto the mobile device. The graphic advertisement is animated.

COUNT III

INDIRECT INFRINGEMENT OF THE '895 PATENT PURSUANT TO 35 U.S.C. § 271(a)

22.

Plaintiffs incorporate by reference the allegations of Paragraphs 1-15.

23.

Defendants actively induce infringement at least one or more claims of the '895 Patent, through, among other activities, making, using, and incorporating into Defendants' website, icon advertising technology. Claim 18 of the '895 Patent, for example, recites:

18. An electronic device coupled to and utilizing a network, the electronic device comprising:

a computer-readable medium to store (i) one or more device applications, (ii) a first time passage indicator to indicate a passage of time during idle-time periods, and (ii) a second time passage indicator which (a) is representative of a graphic advertisement and (b) indicates a passage of time during an first idle-time period;

a processor, coupled to the computer-readable medium, to output data which is representative of the graphic advertisement as o! the second time passage indicator during the first idle-time period as a substitute for the first time passage indicator,

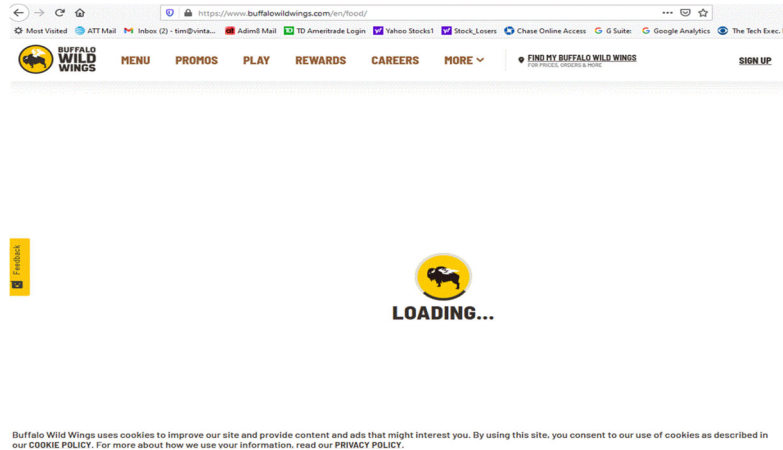
wherein the first idle-time period includes a time corresponding to updating application information of one or more device applications, and

wherein the graphic advertisement is associated with an entity, product and/or service; and

a display, coupled to the processor and the computer-readable medium, to visually output the graphic advertisement of the second time passage indicator during the first idle-time period as a replacement of the first time passage indicator, wherein the display visually outputs an animation of the graphic advertisement of the second time passage indicator during at least a portion of the first idle-time period.

24.

The Defendant's website (<https://www.buffalowildwings.com>) advertises Buffalo Wild Wings goods and services and is viewable on an electronic device. Mobile devices include a standard waiting indicator. Defendant's website is operable to transmit a graphic advertisement waiting indicator to the electronic device.



The electronic device is operable to substitute the graphic advertisement waiting indicator in lieu of a standard waiting indicator. The graphic advertisement waiting indicator is display whilst the Buffalo Wild Wings website loads pages or data onto the mobile device. The graphic advertisement waiting indicator is associated with an entity, product and/or service. The electronic device is operable to display the graphic advertisement waiting indicator during an idle time period. The graphic advertisement is animated.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief that the Court enter judgment in their favor and against Defendants, granting the relief as follows:

A. That the Court enter judgment that one or more claims of the '940 Patent have been infringed either directly or indirectly and/or under the doctrine of equivalents, by Defendants;

B. That the Court enter judgment that one or more claims of the '895 Patent have been infringed either directly or indirectly and/or under the doctrine of equivalents, by Defendants;

C. That Defendants be ordered to pay damages adequate to compensate Plaintiffs for its acts of infringement, pursuant to 35 U.S.C. § 284;

D. That Plaintiffs be awarded increased damages under 35 U.S.C. § 284 due to Defendants' willful infringement of the '940 and '895 Patents;

E. That the Court find that this case exceptional and award Plaintiffs reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

F. That Defendants, its officers, agents, employees, and those acting in privity with it, be preliminarily enjoined from further infringement, contributory infringement, and/or inducing infringement of the patent-in-suit, pursuant to 35 U.S.C. § 283;

G. That Defendants, its officers, agents, employees, and those acting in privity with it, be permanently enjoined from further infringement, contributory infringement, and/or inducing infringement of the patent-in-suit, pursuant to 35 U.S.C. § 283;

H. That Defendants be ordered to pay prejudgment and post-judgment interest;

I. That Defendants be ordered to pay all costs associated with this action; and

J. That Plaintiffs be granted such other and additional relief as the Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a jury trial on all issues justiciable by a jury.

Respectfully Submitted,

This 11th day of February, 2022.

/s/ Brett T. Cooke

Brett T. Cooke
Texas State Bar No. 24055343

Eureka Intellectual Property Law, PLLC
20507 Tamarron Drive
Humble, Texas 77346
Telephone: 832-287-7039
brett@eurekaiplaw.com

ATTORNEY FOR PLAINTIFFS